IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2439 OF 2003
ALONG WITH
APPEAL (LODGING) NO.392 OF 2003
IN
SUMMONS FOR JUDGMENT NO.1205 OF 2001
IN
SUMMARY SUIT NO.227 OF 2000

M/s.Shree Sant Damaji Sahakari Karkhana Ltd. ....Appellant Ori.Deft.

V/s.

Ramesh H. Bhansali ....Respondent Ori.Plff.

None for the Appellant.

None for the Respondent.

CORAM : A.P. SHAH AND S.J. VAZIFDAR, JJ.
DATED : 11TH JANUARY, 2005.

P.C. :

1. The parties and their advocates are absent. There is a delay of 14 days in filing the Appeal. The delay is condoned.

2. The Appeal is directed against an order of the learned single Judge making the Summons for Judgment absolute in the Summary Suit.

3. The Respondent/Plaintiff has filed the suit for recovery of the sum of Rs.9,04,912/- together with interest on the principal sum of Rs.5,72,472/- at the contractual rate of 24% p.a. for the value of the goods sold, supplied and delivered. The copy of the Summons for Judgment taken out after amendment of the plaint was served on the Appellant through its learned counsel on 2nd May, 2002. Despite the service of summons, the Appellant has not filed his reply to Summons for Judgmetn. The learned single Judge has therefore made the Summons for Judgment absolute and passed a decree in terms of sub Rule (6) of Rule 3 of Order 37 read with clause (iv) of Rule 221 of the Bombay High Court (Original Side) Rules. The learned single Judge has granted interest at the rate of 12% p.a. from the date of the suit till payment instead of 24% p.a., as prayed for by the Respondent.

4. No reply was filed to the Summons for Judgment. Even the memo of Appeal does not disclose any defence to the suit.

5. In the circumstances, no interference is warranted with the decree passed by the learned single Judge. The Appeal is dismissed.